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[Signature]

Docket No. 3951-4001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Jonathan Ellenberg, et. al.

Group Art Unit: 3624

Serial No.: 09/624,439

Examiner: FELTEN, Daniel S

Filed: July 24, 2000

For: SYSTEM AND METHOD FOR CONDUCTING A CUSTOMER AFFINITY
PROGRAM AUCTION

PETITION UNDER 37 C.F.R. § 1.183

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is respectfully requested that the Declaration Of Jonathan Ellenberg And Josh Nabozny Under 37 C.F.R. § 1.131 ("the Rule 131 Declaration") filed on January 24, 2005 in the above-identified patent application be accepted without the signature of Josh Nabozny, one of the two joint inventors of the subject matter of the application, pursuant to 37 C.F.R. § 1.183.

Inventor Nabozny does not respond to repeated requests for him to execute the Rule 131 Declaration, following diligent efforts to reach him and to request that he sign this document, as detailed in the accompanying Statement of Facts. Therefore, inventor Ellenberg has signed the Rule 131 Declaration on his own behalf and also on behalf of the non-signing inventor Nabozny.

This Petition is accompanied by the following:

05/10/2005 WASFAW1 00000027 134500 09624439

01 FC:1251		120.00 OP
02 FC:1462	390.00 DA	10.00 OP

(1) a Statement of Facts, signed by Mark J. Abate, Esq. of Morgan & Finnegan, which provides facts in support of the need of the inventor Ellenberg to sign the Rule 131 Declaration for this application on behalf of himself and non-signing inventor Nabozny; and

(2) a check for \$130.00 for the requisite fee accompanying the petition under 37 C.F.R. §§ 1.17(h) and 1.183.

Previously, filed in this case (on January 24, 2005) were the following:

(1) the Rule 131 Declaration executed by joint inventor Ellenberg on behalf of himself and also on behalf of the non-signing inventor Nabozny.

(2) a petition pursuant to 37 C.F.R. § 1.13(a) for a one month extension of time to effect timely filing of the response to the September 23, 2003, Office Action;

(3) a check for \$120.00 (for the one-month extension of time); and

(4) a Response To The September 23, 2004 Office Action.

The most current addresses known for the non-signing inventor Josh Nabozny are stated in the Statement of Facts and are as follows:

15 Kingswood Way
Manalapan, NJ 07726

and

1129 Woodruff Avenue
Hillside, NJ 07275

The PTO did not receive the following listed item(s) <u>a check for 120.00</u> <u>only 130.00</u>

Serial No.: 09/624,439

Docket No.: 3951-4001

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fee(s) which may be required for this Petition under 37 C.F.R. § 1.183, and accompanying papers, or to credit any overpayment, to Deposit Account No. 13-4500, Order No. 3951-4001.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: May 6, 2005

By: 

Mark J. Abate
Registration No. 32,527

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Jonathan Ellenberg, et al.

Group Art 3624

Serial No.: 09/624,439

Examiner: Felten, Daniel S

Filed: July 24, 2000

For: SYSTEM AND METHOD FOR CONDUCTING A CUSTOMER AFFINITY
PROGRAM AUCTION

STATEMENT OF FACTS IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.183

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Mark J. Abate, hereby declare as follows:

1. I am an attorney admitted to the bars of New York, New Jersey and the U.S. Patent and Trademark Office (registration no. 32,527) and a partner of the firm of Morgan & Finnegan, L.L.P. ("Morgan & Finnegan"), 3 World Financial Center, New York, New York 10281-2101. I make this Statement Of Facts In Support Of The Petition Under 37 C.F.R. § 1.183 in the above-referenced application. Morgan & Finnegan has been retained by Merrill Lynch & Co., Inc. to prosecute and handle all matters relating to the above-referenced patent application in the U.S. Patent and Trademark Office. At Morgan & Finnegan, I am responsible for the handling and prosecution of the above-referenced patent application.

2. I am making this declaration on behalf of Merrill Lynch & Co., Inc., at which the invention of the above-referenced patent application was made and to whom the above-identified patent application is assigned, as to the exact facts which are relied upon to establish the diligent effort made to secure the execution of the Declaration Of Jonathan Ellenberg And Josh Nabozny Under 37 C.F.R. § 1.131 by the non-signing joint inventor, Josh Nabozny.

3. I have first-hand knowledge of the facts stated herein.

STATEMENT OF CURRENT ADDRESS

4. The last known residence addresses for Josh Nabozny are 15 Kingswood Way, Manalapan, New Jersey 07726 and 1129 Woodruff Avenue, Hillside, New Jersey 07275.

DETAILS OF OMITTED INVENTOR

5. The inventors of above-identified patent application are Jonathan Ellenberg and Josh Nabozny. The application was filed on July 24, 2000. A Declaration and an Assignment to Merrill Lynch & Co., Inc., both executed by Jonathan Ellenberg and Josh Nabozny, have been filed in the application. Exhs. 1 and 2.

6. After executing the Declaration and the Assignment, Josh Nabozny left the employ of Merrill Lynch & Co., Inc.

7. Inventor Jonathan Ellenberg executed the enclosed Declaration Of Jonathan Ellenberg And Josh Nabozny Under 37 C.F.R. § 1.131 ("the Rule 131 Declaration") on behalf of himself and on behalf of non-signing joint inventor Josh Nabozny, who does not respond to my repeated attempts to contact him to request that he sign the Rule 131 Declaration. As is set forth below, Morgan & Finnegan, on behalf of Merrill Lynch & Co., Inc., has acted diligently and in good faith in making a *bona fide* attempt to request that inventor Josh Nabozny execute the Rule 131 Declaration.

8. On December 15, 2004, I personally called telephone directory assistance to ask for the telephone number of Josh Nabozny at his last known address of 15 Kingswood Way, Manalapan, New Jersey. I was told by the operator that "at the customer's request the number is not published."

9. On December 15, 2004, I also personally conducted searches on the internet, using the search engines Google and Yahoo, for Josh Nabozny, but could not identify any listings corresponding to the co-inventor of the above-identified application.

10. On December 15, 2004, I also asked our law firm's librarian to try to locate Josh Nabozny. Our librarian conducted a search on LEXIS, in the public records database. The LEXIS search uncovered a phone number as of September 9, 2003 of (732) 937-6110 for Josh Nabozny. I called that number and a message that "at the customer's request, the number as been disconnected" was played.

11. On December 15, 2004, I personally contacted the legal department of Merrill Lynch & Co., Inc. for any information concerning the whereabouts of Josh Nabozny. I was informed that contact information for former employees is not maintained by Merrill Lynch & Co., Inc. and that Merrill Lynch & Co., Inc. had no contact information for Josh Nabozny. I also asked Jonathan Ellenberg if he had contact information for Josh Nabozny. Jonathan Ellenberg informed me that he had no contact information for Josh Nabozny.

12. On December 15, 2004, I also personally sent a letter to Josh Nabozny at his last known address of 15 Kingswood Way, Manalapan, New Jersey 07726. The letter was sent certified mail and a return receipt was requested. A copy of this letter and the certified mail receipt is attached. Exh. 3. In the letter, I asked that he contact me regarding the above-referenced patent application. I never received the return postcard, nor did I receive a response to my letter.

13. On January 6, 2005, I asked my secretary, Jacqueline Marchione, to investigate the delivery or non-delivery of my December 15, 2004 letter to Josh Nabozny. She determined, from the postal service database, that the letter was unclaimed. Attached are printouts from that database showing that the letter was unclaimed. Exhs. 4 and 5.

14. On January 24, 2005, my letter of December 15, 2004 to Josh Nabozny was returned unopened as unclaimed. Exh. 6.

15. After filing a Petition Under 37 C.F.R. § 1.47(a) in this case on January 24, 2005, I received a telephone call from John J. Gillon, Jr., a Senior Attorney in the U.S. Patent and Trademark Office, Office of Petitions. Mr. Gillon informed me that using the internet search engine anywho.com he discovered an address of 1129 Woodruff Avenue, Hillside, NJ 07209 for Mr. Nabozny.

16. On March 31, 2005, I asked our law firm's librarian to do a search for Mr. Nabozny using anywho.com. The search uncovered the same address of 1129 Woodruff Avenue, Hillside, NJ 07209 and a telephone number of (908) 353-7444 for Mr. Nabozny.

17. On March 31, 2005 and on April 14, 2005, I called (908) 353-7444 and left messages on an answering machine. In the messages, I identified myself and the reason for the call (this patent application) and asked Mr. Nabozny to return my call. I never received a call back from Mr. Nabozny.

18. On March 31, 2005, I also personally sent a letter to Mr. Nabozny at the address of 1129 Woodruff Avenue, Hillside, NJ 07209. The letter was sent certified mail and a return receipt was requested. A copy of this letter and the certified mail receipt is attached. Exh. 7. In the letter, I asked that he contact me regarding the above-referenced patent application. I never received the return postcard, nor did I receive a response to my letter.

19. On April 14, 2005 and May 5, 2005 I asked my secretary, Jacqueline Marchione, to investigate the delivery or non-delivery of my March 31, 2005 letter to Josh Nabozny. She determined, from the postal service database and from speaking to a postal service clerk at the Hillside New Jersey Post Office, that the Post Office left a notice for Mr. Nabozny to

pick up the letter but he has not picked up the letter. Attached is a printout from that database showing that the notice was left and the letter was not picked up. Exh. 8.

20. I remain without any information as to the location of Josh Nabozny and I have no way of contacting him.

21. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: May 6, 2005

By: 

Mark J. Abate
Registration No. 32,527

**COMBINED DECLARATION AND POWER OF ATTORNEY FOR
ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL
DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART APPLICATION**

As a below name inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

A SYSTEM AND METHOD FOR CONDUCTING A CUSTOMER AFFINITY PROGRAM AUCTION
the specification of which

a. ☒ is attached hereto

b. ☐ was filed on _____ as application Serial No. _____ and was amended on _____ (if applicable).

PCT FILED APPLICATION ENTERING NATIONAL STAGE

c. ☐ was described and claimed in International Application No. _____ filed on _____ and as amended on _____ (if any).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby specify the following as the correspondence address to which all communications about this application are to be directed:

SEND CORRESPONDENCE TO: MORGAN & FINNEGAN, L.L.P
345 Park Avenue
New York, N.Y. 10154

DIRECT TELEPHONE CALLS TO: Mark J. Abate
(212) 758-4800

☐ I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) or under § 365(b) of any foreign application(s) for patent or inventor's certificate or under § 365(a) of any PCT international application(s) designating at least one country other than the U.S. listed below and also have identified below such foreign application(s) for patent or inventor's certificate or such PCT international application(s) filed by me on the same subject matter having a filing date within twelve (12) months before that of the application on which priority is claimed:

☐ The attached 35 U.S.C. § 119 claim for priority for the application(s) listed below forms a part of this declaration.

<u>Country/PCT</u>	<u>Application Number</u>	<u>Date of filing (day, month, yr)</u>	<u>Date of Issue (day, month, yr)</u>	<u>Priority Claimed</u>
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☐ YES ☐ NO

☐ YES ☐ NO

☐ YES ☐ NO

☐ I hereby claim the benefit under 35 U.S.C. § 119(e) of any U.S. provisional application(s) listed below.

Provisional Application No.

Date of Filing (day, month, yr)

**ADDITIONAL STATEMENTS FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART
OR PCT INTERNATIONAL APPLICATION(S) (DESIGNATING THE U.S.)**

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or under § 365(c) of any PCT international application(s) designating the U.S. listed below.

<u>US/PCT Application Serial No.</u>	<u>Filing Date</u>	<u>Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)</u>
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<u>US/PCT Application Serial No.</u>	<u>Filing Date</u>	<u>Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)</u>
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☐ In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the above listed prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint the following attorneys and/or agents with full power of substitution and revocation, to prosecute this application, to receive the patent, and to transact all business in the Patent and Trademark Office connected therewith: John A. Diaz (Reg. No. 19,550), John C. Vassil (Reg. No. 19,098), Alfred P. Ewert (Reg. No. 19,887),

David H. Pfeffer (Reg. No. 19,825), Harry C. Marcus (Reg. No. 22,390), Robert E. Paulson (Reg. No. 21,046), Stephen R. Smith (Reg. No. 22,615), Kurt E. Richter (Reg. No. 24,052), J. Robert Dailey (Reg. No. 27,434), Eugene Moroz (Reg. No. 25,237), John F. Sweeney (Reg. No. 27,471), Arnold I. Rady (Reg. No. 26,601), Christopher A. Hughes (Reg. No. 26,914), William S. Feiler (Reg. No. 26,728), Joseph A. Calvaruso (Reg. No. 28,287), James W. Gould (Reg. No. 28,859), Richard C. Komson (Reg. No. 27,913), Israel Blum (Reg. No. 26,710), Bartholomew Verdirame (Reg. No. 28,483), Maria C.H. Lin (reg. No. 29,323), Joseph A. DeGirolamo (Reg. No. 28,595), Michael P. Dougherty (Reg. No. 32,730), Seth J. Atlas (reg. No. 32,454), Andrew M. Riddles (Reg. No. 31,657), Bruce D. DeRenzi (Reg. No. 33,676), Michael M. Murray (Reg. No. 32,537), Mark J. Abate (Reg. No. 32,527), Alfred L. Haffner, Jr. (Reg. No. 18,919), Harold Haidt (Reg. No. 17,509), John T. Gallagher (Reg. No. 35,516), Steven F. Meyer (Reg. No. 35,613), Kenneth H. Sonnenfeld (Reg. No. 33,285), Tony V. Pezzano (Reg. No. 38,271), Andrea L. Wayda (Reg. No. 43,979) and Walter G. Hanchuk Reg. No. (35,179) of Morgan & Finnegan, L.L.P. whose address is: 345 Park Avenue, New York, New York, 10154; and Michael S. Marcus (Reg. No. 31,727) and John E. Hoel (Reg. No. 26,279) of Morgan & Finnegan, L.L.P., whose address is 1775 Eye Street, Suite 400, Washington, D.C. 20006.

☒ I hereby authorize the U.S. attorneys and/or agents named hereinabove to accept and follow instructions from Patrick Romain, Esq. as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and/or agents and me. In the event of a change in the person(s) from whom instructions may be taken I will so notify the U.S. attorneys and/or agents hereinabove.

Full name of sole or first inventor Jonathan Ellenberg

Inventor's signature* 

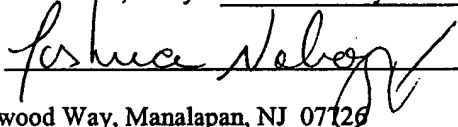
7/12/00
date

Residence 23 Murphy Drive, Bridgewater, NJ 08807

Citizenship USA

Post Office Address 23 Murphy Drive, Bridgewater, NJ 08807

Full name of second joint inventor, if any Josh Nabozny

Inventor's signature* 

7/12/00
date

Residence 15 Kingswood Way, Manalapan, NJ 07726

Citizenship USA

Post Office Address 15 Kingswood Way, Manalapan, NJ 07726

☐ ATTACHED IS/ARE ADDED PAGE(S) TO COMBINED DECLARATION AND POWER OF ATTORNEY FORM FOR SIGNATURE BY FOURTH AND SUBSEQUENT INVENTORS

* Before signing this declaration, each person signing must:

1. Review the declaration and verify the correctness of all information therein; and
2. Review the specification and the claims, including any amendments made to the claims.

After the declaration is signed, the specification and claims are not to be altered.

To the inventor(s):

The following are cited in or pertinent to the declaration attached to the accompanying application:

Title 37, Code of Federal Regulation, § 1.56

Duty to disclose information material to patentability.

(a) A patent by its very nature is affect with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

Title 35, U.S. Code § 101

Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Title 35 U.S. Code § 102

Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent,
- (b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other ...

Title 35, U.S. Code § 103

Conditions for patentability; non-obvious subject matter

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, U.S. Code § 112 (in part)

Specification

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise and exact terms also enable any person skilled in the art to which it pertains, or with which it is mostly nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Title 35, U.S. Code § 119

Benefit of earlier filing date in foreign country; right of priority

An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

Title 35, U.S. Code § 120

Benefit of earlier filing date in the United States

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

Please read carefully before signing the statement attached to the accompanying Application.

If you have any questions, please contact Morgan & Finnegan, L.L.P.

FORM:COMB-DEC.NY
Rev. 1/00

PATENT

Docket No. 3951-4001

ASSIGNMENT OF APPLICATION FOR PATENT

WHEREAS:

Jonathan ELLENBERG, 23 Murphy Drive, Bridgewater, NJ 08807, USA

Josh NABOZNY, 15 Kingswood Way, Manalapan, NJ 07726, USA

(full name(s) and post office address(s) of inventor(s) (including country))

(hereinafter referred to as ASSIGNOR(S)), has made a discovery or invention entitled:

A SYSTEM AND METHOD FOR CONDUCTING A CUSTOMER AFFINITY PROGRAM AUCTION
(title of discovery or invention)

☐ for which application for Letters Patent of the United States has been executed on even date herewith,

☒ for which application for Letters Patent of the United States has been filed on _____, under Serial No. _____, and

WHEREAS:

Merrill Lynch & Co., Inc., 4 World Financial Center, New York, NY 10080 USA
(name and address of assignee)

(hereinafter referred to as ASSIGNEE), is desirous of acquiring the entire interest in, to and under said invention and in, to and under Letters Patent or similar legal protection to be obtained therefor in the United States and in any and all foreign countries.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN:

Be it known that in consideration of the payment by ASSIGNEE to ASSIGNOR(S) of the sum of one Dollar (\$1.00), the receipt of which is hereby acknowledged, and for other good and valuable consideration, ASSIGNOR(S) hereby sells, assigns and transfers to ASSIGNEE, its successors, legal representatives and assigns, the full and exclusive right, title and interest to said discovery or invention in the United States and its territorial possessions and in all foreign countries and to all Letters Patent or similar legal protection in the United States and its territorial possessions and in any and all foreign countries to be obtained for said invention by said application or any continuation, division, renewal, substitute or reissue thereof or any legal equivalent thereof in a foreign country for the full term or terms for which the same may be granted.

I, SAID ASSIGNOR(S), hereby authorize and request the Commissioner of Patents and Trademarks of the United States of America and any Official of any country or countries foreign to the United States of America whose duty it is to issue Letters Patent on applications as aforesaid, to issue all such Letters Patent for said discovery or invention to the ASSIGNEE, as assignee of the entire right, title and interest in, to and under the same, for the sole use and behalf of the ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

I, SAID, ASSIGNOR(S), hereby covenant that I have full right to convey the entire right, title and interest herein sold, assigned, transferred and set over;

AND I, SAID ASSIGNOR(S) hereby further covenant and agree that the ASSIGNEE, its successors, legal representatives, or assigns, may apply for foreign Letters Patent on said discovery or invention and claim the benefits of the International Convention, and that I will, at any time, when called upon to do so by the ASSIGNEE, its successors, legal representatives, or assigns, communicate to the ASSIGNEE, its successors, legal representatives, or assigns, as the case may be, any facts known to me respecting said discovery or invention, and execute and deliver any and all lawful papers that may be necessary or desirable to perfect the title to the said discovery or invention, the said applications and the said Letters Patent in the ASSIGNEE, its successors, legal representatives and assigns, and that if reissues of the said Letters Patent or disclaimers relating thereto, or divisions, continuations, or refilings of the said applications, or any thereof, shall hereafter be desired by the ASSIGNEE, its successors, legal representatives, or assigns, I will, at any time, when called up to do so by the ASSIGNEE, its successors, legal representatives, or assigns sign all lawful papers, make all rightful oaths, execute and deliver all such disclaimers and all divisional, continuation and reissue applications so desired, and do all lawful acts requisite for the application for such reissues and the procuring thereof and for the filing of such disclaimers and such applications, and generally do everything possible to aid the ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said invention or discover in all countries, and without further compensation but at the expense of the ASSIGNEE, its successors, legal representatives and assigns.

Assignor's signature: _____

Jonathan Ellenberg
Jonathan Ellenberg

Citizenship: USA

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 12 day of July 2000.

STATE OF New Jersey)
ss.:
COUNTY OF Mercer)

On this 12 day of July, 2000 before me, the undersigned authority, personally appeared to me

known and known to me to be the individual who is described in and who executed the foregoing Assignment, and who duly acknowledged to me that he executed the same as his own voluntary act and deed for the uses and purposed therein specified.

Christine Barowski
Notary Public

CHRISTINE BAROWSKI
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES JAN. 30, 2004

Assignor's signature: _____

Josh Nabozny

Citizenship: USA

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 12 day of July, 2000

STATE OF New Jersey)
COUNTY OF Mercer) ss.:

On this 12 day of July, 2000 before me, the undersigned authority, personally appeared

to me known and known to me to be the individual who is described in and who executed the foregoing Assignment, and who duly acknowledged to me that he executed the same as his own voluntary act and deed for the uses and purposed therein specified.

Christine Barowski
Notary Public

CHRISTINE BAROWSKI
NOTARY PUBLIC OF NEW JERSEY
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WASHINGTON, DC 20008-2410

TEL: 202-857-7887

FAX: 202-857-7929

SAN FRANCISCO OFFICE

44 MONTGOMERY STREET, SUITE 2550

SAN FRANCISCO, CA 94104-4712

TEL: 415-876-5820

FAX: 415-876-5816

WRITER'S DIRECT DIAL:

(212) 415-8723

mjabate@morganfinnegan.com

December 15, 2004

DAVID H. PFEFFER
HARRY C. MARCUS
STEPHEN R. SMITH
KURT E. RICHTER
EUGENE MOROZ
JOHN F. SWEENEY¹
ARNOLD I. RADY¹
CHRISTOPHER A. HUGHES
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RICHARD STRAUSSMAN
STEPHEN J. MANETTA
KATHLEEN E. MCCARTHY
DOROTHY R. ALTH
MICHAEL O. CUMMINGS

COUNSEL
JOHN C. VASSIL
J. ROBERT DAILEY
ROGER S. SMITH
JOSEPH C. REDMOND, JR.¹
HERBERT BLECKER
GEORGE TACTICOS¹¹

SENIOR COUNSEL
JEROME G. LEE
THOMAS P. DOWLING
JOHN A. DIAZ
ALFRED P. EWERT¹

SCOTT D. GREENBERG
DAVID V. ROSSI
GERARD A. HADDAD
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SCIENTIFIC ADVISORS
SUNGHO HONG, PH. D.
EVELYN M. KWON, PH. D.
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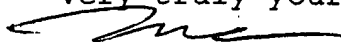
Josh Nabozny
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Manalapan, NJ 07726

Re: U.S. Patent Application No. 09/624,439
For System And Method For Conducting A Customer
Affinity Program Auction
Our Ref: 3951-4001

Dear Josh:

Please call me at your earliest convenience to discuss the above-referenced patent application which was filed in your name while you were a Merrill-Lynch employee. Thank you.

Very truly yours,



Mark J. Abate

MJA:jm

7003 2260 0009 5369 1474

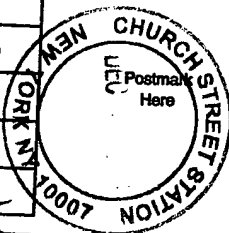
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PS Form 3800, June 2002

See Reverse for Instructions

Abate, Mark J.

From: Marchione, Jacqueline
Sent: Thursday, January 06, 2005 3:31 PM
To: Abate, Mark J.
Subject: FW: USPS Shipment Info for 7003 2260 0003 5369 1474

FYI -- they will notify me up to 2 weeks if any changes.

-----Original Message-----

From: USPS_Track & Confirm [mailto:USPS_Track_Confirm@usps.com]
Sent: Thursday, January 06, 2005 3:19 PM
To: Marchione, Jacqueline
Subject: USPS Shipment Info for 7003 2260 0003 5369 1474

This is a post-only message. Please do not respond.

Jacqueline Marchione has requested that you receive the current Track & Confirm information, as shown below.

Current Track & Confirm Info provided by the U.S. Postal Service, 01/06/05

Label Number: 7003 2260 0003 5369 1474

Service Type: Certified

Shipment Activity	Location	Date & Time
UNCLAIMED 12:39pm	ENGLISHTOWN NJ 07726	01/03/05
NOTICE LEFT 1:29pm	ENGLISHTOWN NJ 07726	12/18/04
ARRIVAL AT UNIT 8:20am	ENGLISHTOWN NJ 07726	12/18/04

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- ARRIVAL AT UNIT, December 18, 2004, 8:20 am, ENGLISHTOWN, NJ 07726

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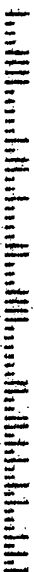
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www.morganfinnegan.com

WRITER'S DIRECT DIAL:

(212) 415-8723

mjabate@morganfinnegan.com

March 31, 2005

DAVID H. PFEFFER
HARRY C. MARCUS
EUGENE MOROZ
JOHN F. SWEENEY
ARNOLD I. RADY
CHRISTOPHER A. HUGHES
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COUNSEL
JOHN C. VASSIL
J. ROBERT DAILEY
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By Certified Mail/Return Receipt Requested

Josh Nabozny
1129 Woodruff Avenue
Hillside, NJ 07205

Re: U.S. Patent Application No. 09/624,439
For System And Method For Conducting A Customer
Affinity Program Auction
Our Ref: 3951-4001

Dear Josh:

Please call me at your earliest convenience to discuss the above-referenced patent application which was filed in your name while you were a Merrill-Lynch employee. Thank you.

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Mark J. Abate

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Docket No. 3951-4001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Jonathan Ellenberg, et al.

Group Art Unit: 3624

Serial No.: 09/624,439

Examiner: Felten, Daniel S

Filed: July 24, 2000

For: SYSTEM AND METHOD FOR CONDUCTING A CUSTOMER AFFINITY
PROGRAM AUCTION

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Commissioner for Patents
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2. Statement Of Facts In Support Of Petition Under 37 C.F.R. § 1.183;
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Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: May 6, 2005

By: 

Mark J. Abate
Registration No. 32,527

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053
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